

**PRACTICES AND PROCEDURES OF  
JUDGE ROBERT J. CINDRICH**

**I. GENERAL MATTERS**

**A. Communications with the Court**

Correspondence with the Court, including letter briefs, is acceptable, provided all parties are copied.

**B. Communications with Law Clerks**

Communications with law clerks concerning the administration, not the merits of a case, is permissible. Such inquiries would include those pertaining to the status of any pending matter.

**C. Telephone Conferences**

Attorneys and parties are permitted to participate in conferences by telephone, and encouraged to do so when they are from outside of the city. An exception is for settlement conferences, when counsel is expected to appear in person.

**D. Pro Hac Vice Admissions**

These are handled on an informal basis and opposing counsel may make the motion on the date of the trial.

**E. Comment to the Media**

No special policy is in effect and the Rules of Professional Conduct govern.

**II. MOTIONS PRACTICE**

**A. Oral Argument**

Oral argument is entertained only on selected, usually factually and legally complex matters, but not otherwise.

**B. Briefs**

Briefs in support of dispositive motions and other motions dealing with the merits of the case are required. Motions for extension of time, for continuance and those involving a discovery dispute do not require a brief, unless directed by the court. Letter briefs are acceptable and encouraged. There is a page restriction of 15 pages on formal briefs. Reply and surreply briefs are not to be filed without leave of court.

**C. Chambers Copies of Motion Papers**

Counsel are requested to send courtesy copies of all briefs and motions to chambers. Voluminous exhibit binders should be omitted as they are available in the Clerk of Court file.

**D. Scheduling**

Parties are generally given twenty days to file a response to a motion (or thirty days if it is a complex motion or involves a federal agency with counsel outside of Pittsburgh). Briefs in support of a motion should be filed with the motion.

E. **Magistrate Judge's Report and Recommendation**

Reports and Recommendations to which objections have been filed will not be decided until a response is filed by the non-objecting party (or opposite party if both object). Briefs not in excess of ten pages are encouraged. If no objections have been filed, a decision is made solely on the basis of the R & R and the briefs already filed. Magistrate Judge orders on discretionary issues pertaining to discovery disputes will be overturned with the same regularity as the appearance of Halley's Comet (even when this court disagrees with them and would have ruled otherwise) and such objections and appeals are strongly discouraged.

F. **Evidentiary Hearings**

Hearings necessitated by pretrial motions (e.g., suppression of confession or evidence) will be held in advance of trial.

G. **In Limine Motions**

Motions in limine are strongly encouraged and must be filed well in advance of trial. Unless there is a good reason not to do so, in limine motions will be ruled upon in advance of trial (see Side Bars, *infra*).

III. **CIVIL CASES**

A. **Pretrial Procedures**

1. **Local Rule 16.1**

A standard form case management order based on L.R. 16.1 is utilized. Each case is designated as Track I or Track II. Other than the requirements of L.R. 16.1, no additional items are included in the order. Copies of the standard form Case Management and Pretrial orders are attached.

2. **Pretrial Conferences**

An initial case management conference is scheduled within 30 days of the filing of a responsive pleading. At the initial conference, the L.R. 16 order is issued after discussion with counsel as to the length of time necessary for discovery, handling of expert witnesses and other matters. Additional case management conferences take place on request of counsel and in all cases prior to the trial date to discuss settlement and/or trial. Counsel are encouraged to request the assistance of the court on any matter and conferences can be conducted by telephone to handle routine problems provided all counsel initiate the call.

3. **Settlement**

Counsel is required to have discussed settlement authority with his or her client prior to a scheduled settlement or pretrial conference. The client need not be present but must be available by telephone. ADR possibilities are explored at settlement conferences. Mini-trials may be conducted when the parties genuinely believe it will assist settlement.

4. **Extensions and Continuances**

Requests for extensions and continuances are granted on cause shown and, if by consent of all counsel, will nearly always be granted.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

Generally 90 days is permitted for discovery unless the parties indicate that additional time will be needed. Extensions of time for discovery are permitted for cause shown.

2. **Expert Witnesses**

Discovery depositions of expert witnesses are nearly always permitted after completion of fact discovery. Expert witness discovery is reciprocal.

3. **Deposition Disputes**

Telephone calls from counsel during the course of a deposition to resolve disputes is permitted and encouraged. The court will entertain conference calls from counsel pertaining to other discovery disputes. After discussion and resolution, counsel will be directed to forward a proposed order, if one is necessary.

4. **Stay of Discovery**

The filing of a dispositive motion will not automatically stay discovery. A stay may be sought by motion and will be granted only if the right to relief under the dispositive motion is clear or there is some other good reason. In some cases, discovery may be limited to those facts in support or opposition to the dispositive motion (e.g., Motion to Dismiss on grounds of lack of in personam jurisdiction).

5. **Limitations on Discovery**

No standard form restrictions on the number of interrogatories or length of depositions are employed. However, the parties are expected to use their common sense and discretion in discovery matters.

6. **Rule 11 Motions - Rule 37 Sanctions**

The Court expects counsel to avoid the necessity for the filing of same through the exercise of good professional judgment, common courtesy and civility.

Counsel fees and costs will be awarded in appropriate circumstances.

C. **Injunctions and TRO's**

All injunctions and TRO's are promptly scheduled. Ex parte requests for expedited discovery will be granted, provided that all such discovery is reciprocal. In general, contact with the opposing party or counsel will be attempted before any order is entered.

D. **Trial Procedures**

1. **Scheduling of Cases**

On or before the pretrial conference, a date for trial will be set. Judge Cindrich generally has one or more backup cases set for the same date. Counsel in backup cases will have a minimum of two weeks notice prior to being called to trial. Vacation schedules and family conflicts are accommodated where possible.

2. **Trial Hours/Days**

Court is in session Monday through Thursday, 9:30 a.m. to 4:30 p.m. with breaks at 11:00 a.m. and 3:00 p.m. Fridays are reserved for pretrial and status conferences, sentences and evidentiary hearings. Counsel must be available at 9:00 a.m. and 4:30 p.m. to meet with the court concerning scheduling, trial problems, and to obtain advance rulings on evidentiary or other issues.

3. **Trial Briefs**

Trial briefs are optional, but appreciated. There are no page or filing date restrictions, but the briefs are much more useful and more likely to be given serious consideration if filed at least one week before trial. In bench trials, counsel are required to submit proposed findings of fact and conclusions of law.

4. **Voir Dire**

The Courtroom Deputy conducts voir dire in civil cases. Counsel are permitted to supplement the standard questions provided that the proposed voir dire questions are submitted one week in advance of trial. If counsel agree on the question, it will almost always be used.

5. **Notetaking by Jurors**

Jurors are permitted to take notes.

6. **Side Bars**

Side bars are highly disfavored because they waste the jury's time and unduly extend the length of the trial. Counsel are required to file motions in limine together with supporting briefs at least one week in advance of trial with regard to evidentiary matter. Counsel will meet with the court at 9:00 a.m. (or earlier if

necessary) and 4:30 p.m., each day to raise points of evidence or other issues that would otherwise necessitate a side bar conference. Failure to raise the issue at that time will generally result in a disposition of the in court objection in the presence of the jury.

7. **Examination of Witnesses Out of Sequence**

Where appropriate, witnesses may be examined out of sequence upon request of a party. Witnesses may be examined in any order to which counsel agrees. For example, counsel could agree that expert witnesses for each side will testify back to back.

8. **Opening Statements and Summations**

Up to one hour is permitted to each side for opening and closing statements, depending on the complexity of the case.

9. **Examination of Witnesses or Argument by More Than One Attorney**

Co-counsel are not permitted to split up the examination of a witness or split up opening and closing arguments.

10. **Examination of Witnesses Beyond Direct and Cross**

Redirect and recross are permitted on a very limited basis.

11. **Videotaped Testimony**

Judge Cindrich has no special procedures except those set out in the local rules.

12. **Reading of Material into the Record**

Counsel can devise their own methodology, provided opposing counsel agrees.

13. **Exhibits**

All exhibits must be marked and exchanged in advance of trial. Copies are to be provided for the court. All objections are to be made and ruled upon prior to trial. Counsel are not to take time during trial to exchange exhibits with each other as this will have been accomplished pretrial. With advance notice and approval of the court, visual aids and exhibits may be used during opening statements.

14. **Directed Verdict Motions**

The only requirements are in the Federal Rules of Civil Procedure.

15. **Jury Instructions and Verdict Forms**

Judge Cindrich uses Devitt and Blackmar for standard jury instructions. Both parties are required to submit proposed jury instructions and verdict slips at least one week prior to trial, and it is much appreciated if the computer disk

counsel be provided as well. A charging conference will be held in chambers, at which time a ruling will be made on each point for charge and a copy of the court's proposed charge will be supplied to counsel. Counsel are required to state objections to the proposed charge at the charging conference and to supply the alternate language, together with case authority. Counsel will also approve the form of the verdict slip at the charging conference.

16. **Proposed Findings of Fact and Conclusions of Law**

Proposed findings of fact and conclusions of law are required in bench trials and in jury trials as to matters requiring the court to make preliminary findings prior to a ruling. These are to be submitted one week in advance of trial.

17. **Offers of Proof**

There should be no requests for offers of proof during trial as the parties will have discussed the next day's witnesses at the 4:30 p.m. conference with the court (or at the following day's conference at 9:00 a.m.).

18. **General Courtroom Rules**

Judge Cindrich has no special courtroom rules. Counsel can conduct the trial in any manner they see fit, provided it is done with courtesy and civility.

E. **Jury Deliberations**

1. **Written Jury Instructions**

The jury will be provided with a copy of the jury instructions.

2. **Exhibits in the Jury Room**

Generally, the jury has with it all exhibits during its deliberation.

3. **Jury Requests to Read Back Testimony or Reply Tapes During Deliberations**

Such requests are permitted when the jury is able to point to a specific portion of the testimony or videotape.

4. **Jury Questions**

All written questions submitted by the jury are supplied to counsel. Counsel and the court meet in chambers to discuss and hopefully agree on a reply. The jury is then summoned to the courtroom in most cases and the verbal reply is given to them. The written reply is also provided where appropriate.

5. **Availability of Counsel During Jury Deliberations**

Trial counsel need not remain in the courtroom area, but must be available by telephone.

6. **Interviewing the Jury**

Interviewing of jurors post-verdict is discouraged, but the jury is told that it is up to them to decide if they choose to be interviewed.

IV **CRIMINAL CASES**

A. **Motions**

Motions for extension of time to file pretrial motions are generally granted, especially if there is a significant amount of discovery material, the case involves a wiretap or a complex factual situation. Appropriate language excluding delays from the operation of the Speedy Trial Act should be included in an order accompanying the motion.

B. **Pretrial Conferences**

A status conference well in advance of trial is scheduled in each case.

C. **Guilty Pleas**

There are no special rules regarding guilty pleas and no deadlines for accepting or rejecting plea bargains. Counsel are encouraged to plea bargain as early as possible to avoid tying up trial time. A written format is followed at the date set for change of plea. Counsel may have a copy of the colloquy on request.

D. **Voir Dire**

Judge Cindrich conducts the voir dire in criminal cases. Counsel may supplement any standard voir dire with questions they propose. However, proposed voir dire questions are to be submitted to the court at least one week prior to trial.

E. **Trial**

Counsel may decide when or if they will present an opening statement. Defense counsel may not open both before and after the prosecution.

Sidebars are disfavored and will not be permitted if it is to decide an issue that could have been decided in chambers before or after court.

Motions in limine are to be filed, together with supporting brief, at least one week in advance of trial.

Transcripts of tape recorded conversations are permissible.

The government is encouraged to turn over Jencks Act material no later than the date jury selection begins.

Brady material should be exchanged well in advance of trial.

Special interrogatories to the jury will be submitted upon request of counsel in

appropriate cases.

A copy of the charge will be provided to the jury.

Standard jury instructions are taken from Devitt and Blackmar. Counsel are required to submit written points for charge one week in advance of trial and a copy of the computer disk containing the charge is appreciated. The charging conference is in chambers. Rulings will be made on the proposed instructions. A copy of the court's final charge will be provided to counsel.

**F. Objections to Presentence Investigation Report**

These must be submitted by counsel well in advance of the sentencing hearing if counsel expect to receive tentative findings and conclusions from the court.

Tentative Findings and Conclusions Concerning Disputed Facts or Factors will be provided to counsel in advance of the sentencing hearing.

The parties will be notified in advance and provided with reasons in cases when a downward or an upward departure is contemplated.

**V. BANKRUPTCY CASES**

N/A

**VI. BANKRUPTCY APPEALS (TO THE DISTRICT COURT)**

**A. Filing and Scheduling**

Briefs are to be filed within 30 days by the appellant and 30 days thereafter by the appellee.

**B. Oral Argument**

Oral argument is not generally scheduled, but may be granted upon request.

**C. Other General Practices/Procedures**

Briefing schedules and other deadlines imposed by the Federal Rules of Bankruptcy Procedure will be modified where appropriate on the request of the party.